

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

VICKIE C.,

Plaintiff,

v.

**8:20-CV-1452
(FJS/DEP)**

**KILOLO KIJAKAZI, Acting Commissioner
Social Security,¹**

Defendant.

APPEARANCES

LAW OFFICES OF KENNETH HILLER, PLLC
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Amherst, New York 14226
Attorneys for Plaintiff

SOCIAL SECURITY ADMINISTRATION
J.F.K. Federal Building, Room 625
15 Sudbury Street
Boston, Massachusetts 02203
Attorneys for Defendant

SCULLIN, Senior Judge

OF COUNSEL

**KENNETH R. HILLER, ESQ.
JUSTIN M. GOLDSTEIN, ESQ.**

NATASHA OELTJEN, ESQ.

ORDER

Plaintiff commenced this action pursuant to 42 U.S.C. §§ 405(g) and 1383(c)(3) seeking review of Defendant's final decision finding that she was not disabled at the relevant times and was, therefore, not eligible for the disability insurance ("DIB") and supplemental security income ("SSI") benefits for which she had applied. *See* Dkt. No. 1. The parties filed motions for

¹ Kilolo Kijakazi is currently the Acting Commissioner of the Social Security Administration and, therefore, should be substituted as Defendant in this action pursuant to Rule 25(d) of the Federal Rules of Civil Procedure. The Court hereby directs the Clerk of the Court to modify the docket accordingly.

judgment on the pleadings on August 4, 2021, and October 15, 2021. *See* Dkt. No. 14 (Plaintiff's motion); Dkt. No. 17 (Defendant's motion). Magistrate Judge Peebles issued a Report and Recommendation on May 18, 2022, *see* Dkt. No. 19, to which neither party filed any objections.

In his Report and Recommendation, Magistrate Judge Peebles recommended that the Court do the following: (1) grant Plaintiff's motion for judgment on the pleadings; (2) deny Defendant's motion for judgment on the pleadings; and (3) vacate Defendant's decision and remand for further proceedings without a directed finding of disability pursuant to sentence four of 42 U.S.C. § 405(g). *See* Dkt. No. 19 at 29.

"When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice." *Young v. Polizzi*, No. 9:16-CV-660, 2018 WL 3949942, *1 (N.D.N.Y. Aug. 16, 2018) (quoting *Ward v. Lee*, No. 9:16-CV-1224, 2018 WL 3574872, *1 (N.D.N.Y. July 25, 2018) (citation omitted)). "After conducting this review, "the Court may 'accept, reject, or modify, in whole or in part, the recommendations made by the Magistrate Judge.'"" *Id.* (quotation omitted).

The Court has reviewed Magistrate Judge Peebles' May 18, 2022 Report and Recommendation for clear error and manifest injustice; and, finding none, the Court hereby

ORDERS that Magistrate Judge Peebles' May 18, 2022 Report and Recommendation is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

ORDERS that Plaintiff's motion for judgment on the pleadings, *see* Dkt. No. 14, is **GRANTED**; and the Court further

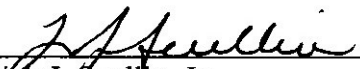
ORDERS that Defendant's motion for judgment on the pleadings, *see* Dkt. No. 17, is **DENIED**; and the Court further

ORDERS that Defendant's decision is **VACATED** and this matter is **REMANDED**, pursuant to sentence four of 42 U.S.C. § 405(g), for further proceedings consistent with Magistrate Judge Peebles' Report and Recommendation without a directed finding of disability; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Plaintiff and close this case.

IT IS SO ORDERED.

Dated: June 6, 2022
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Judge